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07/938,211 09/03/92 BERNA

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EXAMINER
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C2M1/0804

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ART UNIT

PAPER NUMBER

3206

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DATE MAILED: 08/04/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice re Patent Drawing, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, Form PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. Claims 1 - 10 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims 1-10 are rejected.

5. Claims _____ are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable. not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed on _____, has been approved. disapproved (see explanation).

12. Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has been received not been received
 been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other _____

EXAMINER'S ACTION

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Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fixed arm of claim 9 must be shown or the feature cancelled from the claim. **No new matter should be entered.**

3. The drawings have also been objected to by the draftsman of the Patent and Trademark Office as seen on the enclosed form PTO-948.

Specification

4. This application does not contain an Abstract of the Disclosure as required by 37 C.F.R. § 1.72(b). An Abstract on a separate sheet is required.

5. The specification is in such faulty English that a new specification is required. The substitute specification filed must be accompanied by:

a) a statement that the substitute specification includes no new matter,

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✓ b) a marked-up copy which shows the portions of the original specification which are being added and deleted, and

✓ c) a statement that the substitute specification includes the same changes as are indicated in the marked-up copy of the original specification showing additions and deletions.

? X - Such statements must be verified statements if made by a person not registered to practice before the Office.

✓ - Additions should be indicated by underlining and deletions should be indicated between brackets. MPEP 608.01(q).

✓ - Substitute specifications may include substitute abstracts but NOT claims.

✓ - Substitute specifications should be submitted SEPARATELY from other amendments, papers, etc., and submitted under their own cover letters containing said statements to avoid confusion. 37 CFR 1.4(c), and MPEP 714.19 and 714.20.

6. The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 C.F.R. §§ 1.52(c) and 1.56. A properly executed oath or declaration which complies with 37 C.F.R. § 1.67(a) and identifies the application by serial number and filing date is required. The surcharge set forth in 37 C.F.R. § 1.16(e) is also required if it has not been previously paid in the application. Specifically,

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the part of page 29 that has been stapled to the bottom of the page is considered an alteration that has not been initialed or dated as set forth above.

✓ 7. Applicant is requested to delete the remarks on page 3 of the specification which state that the patents to Pappas and Ditto are "anticipated" when referring to earlier prior art works. Below is an excerpt from the U.S. Manual of Patent Examining Procedures (MPEP) which prohibits statements regarding the merits or validity of patents of another person:

608.01(r) Derogatory Remarks About Prior Art Specification

The applicant may refer to the general state of the art and the advance thereover made by his or her invention, but he or she is not permitted to make derogatory remarks concerning the inventions of others. Derogatory remarks are statements disparaging the products or processes of any particular person other than the applicant, or statements as to the merits or validity of applications or patents of another person (emphasis added). Mere comparisons with the prior art are not considered to be disparaging per se.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention. Specifically, reference is made to "a support part 1, such as a rod or a tube, with a circular cross section or not" (emphasis added). Applicant has not sufficiently described a support part which is "not" circular, nor has Applicant described how the movable arms 2 would be able to be "turned into several directions around said support" if the support was "not" circular in section. Additionally, if the support part is "cylindrical", it is not clear as to how it can "not" have a circular section.

9. Claims 1-10 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the above objection to the specification.

10. Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, the phrase "for enabling to hold objects" is unclear as to what is actually being claimed . Recommend changing this phrase to read --for holding objects--.

At the beginning of each step "a", "b" and "c", the "." following each letter should be changed to a closed paren --)-- (this also applies to claim 10). In step "a", the phrase "with a section

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X circular or not" is mis-leading and should read --with a circular section-- (this also applies to claim 2). In step "c", the phrase "opposite from the arm to which it is secured" is unclear as to what is being claimed. It is recommended that this phrase be deleted in claims 1 and 2. Also, the phrase "of which the basis is essentially at right angles" should read --which is essentially at a right angle" in order to clarify claims 1 and 2.

✓ In claim 3, line 1, the word "each" should read --at least one-- in order to be consistent with claim 2, and on line 2, the phrase "consists in" should be changed to read --comprises--.

X In claim 4, it is not clear as to how the arms are "being fitted out" with buffers. Recommend changing this claim to read --A device according to claim 2, wherein said at least two movable arms comprises at least four movable arms, each of said arms having a said at least one substantially elastic buffer secured thereto at a distance from said support part, the buffers of two of said at least four movable arms having their contact faces facing the contact faces of another two of said at least four movable arms--. Claims 5 and 6 should be amended in the same manner as claim 4.

✓ In claim 7, "one end at least" should read --at least one end--, and the word "possibly" should be deleted because it leads to an indefinite claim.

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In claim 8, "said support part direction" lacks proper antecedent basis. Recommend changing claim 8 to read --A device according to claim 2, wherein the support part has secured thereto a coupler which supports another support part in at least one direction distinct from that of the first said support part, said another support part carrying at least one movable arm provided with a substantially elastic buffer--.

Claim 9 is mis-leading because in claim 2, the arms are positively recited as being able to be turned in several directions and slide along the support part, so one of these arms cannot be fixed as required by claim 9.

In claim 10, it is not clear as to what Applicant is claiming. Are the arms arranged along one or several support parts? These are considered to be distinct inventions and cannot be claimed together.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

12. Claims 1-3 and 10 are rejected under 35 U.S.C. § 103 as being unpatentable over Neff in view of Thornton.

Neff teaches a device for clamping objects comprising a cylindrical support 10 on which is mounted a first arm 12 and a second arm 14,16. The arms can slide along the support and are able to rotate thereabout. Neff, however, does not teach fitting the arms with elastic buffers at their ends.

Thornton teaches fitting the arms of a clamp structure with rubber clamping pads at their ends.

It would have been obvious to one of ordinary skill in the art, at the time of invention, to provide the clamping arms of Neff with elastic pads, in light of the teachings of Thornton, in order to protect the object being clamped. Note that the contact faces of Neff are at right angles to the support part and that the pads taught by Thornton can be considered rings which cover the end of each arm.

Regarding claim 10, the arms of Neff are manually moved into contact with the object being held and are then released so as to lack each of the arms by tilting them against the support part.

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13. Claims 4-6 are rejected under 35 U.S.C. § 103 as being unpatentable over Neff in view of Thornton as applied to claims 1-3 and 10 above, and further in view of the EPO 0080960 patent to Berna.

Neff in view of Thornton teach the invention except for additional sets of movable arms placed on the support part.

Berna, in figure 3 of the EPO patent, teaches providing a support part of a clamping device with multiple sets of movable arms.

It would have been obvious to one of ordinary skill in the art, at the time of invention, to provide the support part of Neff/Thornton with additional movable arms, in light of the teachings of Berna, in order to be able to hold more than one object at a time. Note that one of ordinary skill would be fully capable of adding additional sets (more than two) of movable arms to the support part, depending on the number of objects being held.

14. Claim 7 is rejected under 35 U.S.C. § 103 as being unpatentable over Neff in view of Thornton as applied to claims 1-3 and 10 above, and further in view of Ditto.

Neff in view of Thornton teach the invention except for an end of the support part being fitted with a removable stop.

Ditto teaches providing a support part in a clamp with an end cap 32.

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It would have been obvious to one of ordinary skill in the art, at the time of invention, to provide the support part of Neff/Thornton with an end cap, in light of the teachings of Ditto, in order to protect the users hand. Note that the end cap of Ditto can function as a stop, can be considered to be a rider and is removable from the support part.

Claims Not Rejected On Art

15. Claim 9 is not being rejected in view of prior art references at this time because of the rejection under 35 U.S.C. § 112, 2nd paragraph and the objection to the specification above.

Allowable Subject Matter

16. Claim 8 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

17. The following is an Examiner's statement of reasons for the indication of allowable subject matter: The prior art does not teach or suggest a support part in a device of the type claimed which has another support part coupled thereto as required by claim 8.

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Additional Prior Art References

18. The prior art references listed on the enclosed form PTO-892, but not used in a rejection of the claims, are cited for their clamping structures. The patent to Pettigrew is not available as a reference in this case because of the filing date.

The references marked with a "*" were supplied by Applicant in connection with the PCT papers and thus are not being supplied along with this office action.

19. Applicant is requested to provide the Examiner with copies of the relevant citations of the prior art references cited in the description of the prior art on pages 1-3 of the specification in order for the Examiner to properly consider these references. The patents to Ditto and Pappas need not be submitted because they have already been made of record.

20. Any inquiry concerning this communication should be directed to Examiner Tom Hughes at telephone number (703) 308-1806.

sth
July 29, 1993



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